

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

TORRANCE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014030188

AMENDED ORDER DENYING
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND HEARING

On March 20, 2014, District filed a request to continue the dates in this matter, on the basis that its attorney was not available for hearing until May 7, 2014 due to conflicts with other OAH matters and a scheduled two-week vacation. District's counsel contends that it was unable to agree on dates with parents.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All pre-hearing conference and hearing dates are confirmed and shall proceed as calendared. Here, District filed its complaint for due process hearing and mediation naming Parents on Student's behalf on March 3, 2014. The matter is set for a pre-hearing conference on March 21, 2014, and hearing on March 27, 2014. District waited until one day before the pre-hearing conference to unilaterally request a continuance. Where

District has chosen to file for due process, it is not good cause to grant District a continuance of a hearing so that its counsel can take a two-week vacation and, perhaps, participate in other OAH hearings that are set in the future. District's counsel presumably knew when she filed this case that she was allegedly the "lead attorney" for District, and that the matter would be set for hearing within 45 days. Any conflict was within Counsel's control. District has not established good cause for a continuance based on an actual conflict. For these reasons, the request is denied without prejudice to the parties' right to request a continuance if they can agree on mutual dates, or, if they cannot agree, request that OAH set dates for the hearing.

IT IS SO ORDERED.

DATE: March 20, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings